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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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Charles E. Reddick

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EXAMINER

VO, TED T

ART UNIT

PAPER NUMBER

2191

DATE MAILED: 07/25/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/898,573	Applicant(s) REDDICK ET AL.	
	Examiner Ted T. Vo	Art Unit 2191	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 15 May 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 36-50 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 36-50 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. This action is in response to the amendment filed on 05/15/2006.

None of amended Claims 5 is provided. The Claims remain in the manner of the claims filed on 09/01/25.

Claims 36-50 are pending in this application.

Response to Amendment

2. Applicants fail to amend the claims or to respond the objection to the Claims filed on 09/01/05. This objection is in the office action mailed on 03/13/06 and also **maintained** in this action because the printing quality of the Claims is very poor and unreadable.

Response to Arguments

3. Applicants arguments given in the remarks filed on 05/15/06 have been fully considered. Applicants traverse the rejection where Applicants alleged that neither Flynn nor Rogers teaches or suggest the recitation in the Claim 42: *"sending an electronic mail message to each mobile computer in the network when the upgrade version of the software program is available on the server"*.

It appears that Applicant contend about the combination of the two references.

Examiner disagrees. The suggestion or the motivation is applied only to an inventive feature, missing in a reference, and is claimed, and the inventive feature is unobvious for a combination.

In MPEP 706.02(j): "To support the conclusion that the claimed invention is directed to obvious subject matter, either the references must expressly or impliedly suggest the claimed invention or the **examiner must present a convincing line of reasoning as to why the artisan would have found the claimed invention to have been obvious in light of the teachings of the references.**" Ex parte Clapp, 227 USPQ 972, 973 (Bd. Pat. App. & Inter. 1985). See MPEP § 2144 - § 2144.09 for examples of reasoning supporting obviousness rejections.

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In the above claiming feature, "*sending an electronic mail message to each mobile computer in the network when the upgrade version of the software program is available on the server*", it is not an inventive feature. It is well-known before the filing of this application. All users who use a network know to send an email, written in the email a message of information so that another user who receives the message knows what to do, or understands it. The act of *sending an electronic mail message to each mobile computer in the network when the upgrade version of the software program is available on the server* remains a manual act. This is **reasoning as to why the artisan would have found the claimed invention to have been obvious**. Therefore, it is no need for an explanation or a mention in neither reference, where these references are within network communications.

Furthermore, the scope of the claim as a whole is a mere guidance, where a technician reads the guidance and does his job in accordance to the instructions. Applicants fail to point out inventive features as reasoned in the prior action. The claim appears a mere preemption of a fundamental thing. For example, with the windows operating system in a computer device connected via a network, a user can download information, email a note, read information, news, instructions, etc.

Applicants' arguments are respectfully considered. However, they are not persuasive as reasoned above.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

A person shall be entitled to a patent unless –

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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5. Claims 36-50 is rejected under 35 U.S.C. 103(a) as being unpatentable over Flynn et al., PCT No. WO 9939488 A1, "Communication System for Mobile Data transfer", in view of www.Rogers.com, "Portage™ Wireless Connectivity, Quick Start Guide (hereafter: Rogers), 10-2000.

Given the broadest reasonable interpretation of followed claims in light of the specification:

As per claim 42: Flynn discloses

A method of using computerized guide system for transferring a software program from a server in a network to telecommunications equipment in a remote location (Flynn: page 2, lines 21-28, "a set of protocol") using a mobile computer (Flynn: Figure 6, Reference number 48), comprising:

loading an updated version of a software program on the network server (Flynn: Figure 6, referring Reference number 25, where the software program is downloaded from);

[providing the guide adapted for independent use by a technician having self-guide instructions for accessing the software program on the network server, downloading the software program from the network server to the mobile computer],

connecting the mobile computer to the telecommunications equipment, accessing the software program downloaded onto the mobile computer, and transferring the software program from the mobile computer to the telecommunications equipment (Flynn: Figure 6, and see page 13, lines 9-27); and

[following the instructions on the guide to access the software program on the network server, download the software program from the network server to the mobile computer],

connect the mobile computer to the telecommunications equipment, access the software program downloaded onto the mobile computer, and transfer the software program from the mobile computer to the telecommunications equipment (Flynn: Figure 6, referring Reference number 49, where the connection is established by terminal module 48 ('mobile computer') and application module 45, 46, or 47 ('communications equipment')); and sending an electronic mail message to each mobile computer in the network when the upgrade version of the software program is available on the server (provided by the network and the user who uses the Flynn's.)

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Flynn does not clearly teach the "guide" shown by the limitations within the square brackets above.

Rogers discloses,

"providing the guide adapted for independent use by a technician having self-guide instructions for accessing the software program on the network server, downloading the software program from the network server to the mobile computer,

[connect the mobile computer to the telecommunications equipment, access the software program downloaded onto the mobile computer, and transfer the software program from the mobile computer to the telecommunications equipment];

following the instructions on the guide to access the software program on the network server, download the software program from the network server to the mobile computer" (The Guide shown by Rogers is the reference itself (see whole reference) and/or the Online Guide in CE windows (See reference started at page 50), which is accessible via internet. The Guide consists of the instructions and figures readable in text format. Therefore, all users or service technicians who have the similar device installed with a computer windows can uses this guide to download or transfer Software online (at the same time) via connections).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to combine the teachings, the details in the Guide in the teaching of Rogers and the basic guide (Flynn: Client FTP) in the File Transfer Protocol as taught by Flynn.

Doing so would conform to a standard of guidance that includes texts and guiding instructions written by a technical writer (i.e. it looks like when selling a device it is always included with guiding instructions/booklets for how to use the device), and thus, with the online guide, it would instruct a person who has less technical knowledge could do basic things, thus it has no need for providing costly training.

As per Claim 36: In further view of *telecommunications equipment* as taught by Flynn

Rogers further discloses *"wherein instructions for accessing, downloading, and transferring the software program from the network server re accessible at a plurality of locations at the same time to a*

plurality of technicians servicing the telecommunications equipment", because instructions are provided online.

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to combine this teaching with the teaching of connecting *telecommunications equipment* as taught by Flynn. Doing so would take advantage of networks and thus allow software to be accessible at many different locations, and thus, no need to bring equipments back and forth.

With regards to limitations of Claims 37-41, 44, 48, 49, 50 in further view of Flynn:

Roger discloses instructions addressed in Claims 7-41, 44, 48, 50

As per Claim 37: Regarding the guiding means, Rogers further discloses, "*wherein at least one set of instructions further comprises a display of an icon*" (Mere instructions such as all symbols shown in a webpage. See page 27, second and third paragraph, "www.palmn.com", this web site provides source of software for downloading, furthermore, "Icons" are common used by a website for graphically indicating its type of software. For example, step 3, page 53, shows icons for indicating types of software used in the CE windows; and further noted that Refer to the contents in the guide)).

As per Claim 38: Regarding the guiding means, Rogers discloses, "*wherein the icon is associated with the software program and the at least one set of instructions further comprises a description of the software program associated with the icon*", in the CE windows.

As per Claim 39: Regarding the guiding means, Rogers discloses, *wherein the guide comprises a printed guide*" (The reference is a printed guide)

As per Claim 40: Regarding the guiding means, Rogers discloses, "*wherein the guide comprises an on-line guide*" (see page 3, Web Acceleration).

As per Claim 41: Rogers discloses, "*wherein providing the guide further comprises providing an online guide and wherein after followings the instructions in the printed guide the method further comprises following the instruction in the on-line guide only*" (The reference a web browser, it is an online guide. The mailed reference to Applicants is printed guide, and it mentions Internet guide by using network connections).

As per Claim 44: Regarding the claimed limitation, Roger discloses, "*comprise instructions for accessing software programs for the telecommunications equipment of a plurality of vendors* (Climing texts, mere instruction. Refer to the whatever contents in the/a guide).

As per Claim 48: Regarding the claimed limitation, it is a mere data, Roger discloses guide/instructions.

As per Claim 49: Regarding claimed limitation, Roger discloses guide/instructions.

As per Claim 50: Regarding the claimed limitation, it is a mere data, Roger discloses guide/instructions.

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to further include in the Flynn with guide/instructions in the Guide of Rogers.

Doing so would conform to a standard of guidance that includes texts and instructions (i.e. it looks like when selling a device it is always included with guiding instructions/booklets for how to use the device), and thus, with the online guide, it would instruct a person who has less technical knowledge could do basic things, thus it has no need for providing costly training.

With regards to limitations of Claims 43, 45-47, Flynn further discloses:

As per Claim 43: Regarding the basic guide, Flynn further discloses, "*loading an updated version of software program on the network server further comprises loading the updated version of the software program for each of a plurality of equipment in use in a telecommunications system*" (Flynn: See Figure 6).

As per Claim 45: Regarding the basic guide, Flynn further discloses, "*wherein the telecommunications equipment comprises a multiplexer*" (Flynn: See Figure 6, multi-connection to devices 45, 46, and 47).

As per Claim 46: Regarding the basic guide, Flynn further discloses, "*software program comprises a digital loop electronic software program*" (Flynn: See page 9, lines 1-7, a plurality of separate application modules: '*a digital loop electronics software program*').

As per Claim 47: Regarding the basic guide, Flynn further discloses, "*wherein the software program comprises a testing software program*" (Flynn: See page 9, lines 1-7, a plurality of separate application modules: '*a testing software program*')"

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to further include these teachings of Flynn and the Guide of Rogers.

Doing so would conform to a standard of guidance that includes texts and instructions (i.e. it looks like when selling a device it is always included with guiding instructions/booklets for how to use the device), and thus, with the online guide, it would instruct a person who has less technical knowledge could do basic things, thus it has no need for providing costly training.

Conclusion

6. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ted T. Vo whose telephone number is (571) 272-3706. The examiner can normally be reached on 8:00AM to 4:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wei Y. Zhen can be reached on (571) 272-3708.

The facsimile number for the organization where this application or proceeding is assigned is the Central Facsimile number **571-273-8300**.

Any inquiry of a general nature or relating to the status of this application should be directed to the TC 2100 Group receptionist: 571-272-2100. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Ted T. Vo
Primary Examiner
Art Unit 2191
July 21, 2006